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CHILD LABOUR IN INDIA: A STIGMA ON THE FACE OF SOCIETY

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CHILD LABOUR IN INDIA: A STIGMA ON THE FACE OF SOCIETY

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Abstract:

When there is no confidence in the future of a child in a nation, then surely that nation also has no future. As in Indian society children have always been the subjects of discussion due to less vocal or country's past or socio-cultural background. Speculation among children is the outlay in the future of a nation, which forms ideas. Childhood is important because their personality is formed in the process of socialization. The origin of child labour lies in a multidimensional complex process of self-sustaining socio-economic retardation. "Child labour" is defined as the employment of children in any physical work. Whether or not work done by children is defined as child labour depends on the child's age, hours and type of work, and working conditions. But many millions of children work in abusive and unequal conditions that are clearly dangerous to them. India is no exception. According to the report, India ranks among the top countries where the percentage of labour force making up "child labour" is very high. Like others, India too, from its inception as an independent nation, has enacted laws to reform and eliminate all forms of child labour, but the ground reality is still very depressing in nature. Child labour in India is addressed by the Child Labour Act 1986 and the National Child Labour Project. Today there are more than 11.24 million children in India who are spending their childhood in learning, carpet-weaving, beedi-rolling, family labour, agriculture and countless other occupations instead of going to school. Finally, as planning and strategies identify, the research paper identifies policies and attempts have been made to actually address and determine the problem as needed.

Keywords: Child Labour, Human Rights, Constitution, Social Awareness, Development.

Introduction

The implication and meaning of the child lie in the fact that the child is the universe. If there were no children, there would be no civilization and without humanity there would be no universe. Therefore, mankind must give to the child the best that it has to offer.¹

As laid down in the Indian Constitution, no child below the age of 14 years is permitted to work in any factory or mine or engage in any other hazardous employment.² The employment of children in an industry or business, especially when illegal or carefully disproportionate child labour is a work that children should not do because of the risk and possibility that the risk will actually involve injury or illness as well as serious harm it is possible. Today India is the largest country which employs 31 million

¹ Vishnupriya Y. International Concern for Protection of Right, Supreme Court Journal, [1992], Vols. I & II, May/June, at p. 16.

² Article 24 of the Indian Constitution.

children between the ages of 5 years and 14 years. The world's largest democracy has yet to ratify the International Labour Organization and the Minimum Age Convention, 1973, which sets the ground rules for the employment of minors worldwide. According to UNICEF statistics, an estimated 150 million children worldwide are involved in child labour. Children are regularly engaged in paid and unpaid work that is not harmful to them. However, they are classified as child labourers when they are too young to work or are involved in hazardous activities that may compromise their physical, mental, social or educational development. In the least developed countries, one in four children [ages 5 years to 17 years] is engaged in labour that is considered harmful to their health and development. UNICEF says in another report, "children's actions should be seen as occurring with a limit, one end destruction or unfair acts and beneficial actions—for the entertainment of children's schooling, promoting their development or increase. There is another end, and in between these two ends are vast areas of work that may or may not negatively affect a child's development."

As we know, the classification of child labour was not a subject in traditional societies, as labour and the child have been regarded as an integral part of social and economic relations. The whole example has been completely replaced. The depiction appeared during the British period when child labour was used and exploited in plantation works. This abuse was first brought to official notice in the 1870s. The Labour Investigation Committee of 1946 uncovered real examples of child labour.

Before the introduction of the Mines Act, 1956, children were employed in industrial units and cottage industries such as beedi and glass making units. In the past, child labour has been a part of social organization in which all the members contributed their labour to produce consistency and endurance.³

In the 1971 Census Report it was estimated that 12 percent of children were working, while in 1981 this increased to 13 percent, and 10 years later it fell to 11.28 percent. It was recognized that the attitude of employers using children has changed over the years due to civil society and mass media. Although the campaign for universal education appears to be one of the clearest efforts to get all children under the age of 14 years in school, the situation has not changed critically. According to the 1983 survey, 90 percent of child labour was established in rural India, of which 42.49 percent were in agricultural labour and 37.45 percent were agriculturists. The rate of participation of child labour varies from state to state. In fact, the highest rate was observed in Andhra Pradesh, which accounts for over 10.8 percent of the total labour in India. Indeed, some micro studies show that initiatives to empower women to reduce child labour practices failed. Similarly, although interventions through social labeling in particular work places got rid of child labour practices, the same children relocated and started working in other disturbed areas. These empirical evidences suggest that these working children are away from the legal framework and all forms of intervention have been ineffective. The lack of restructuring of the existing policies according to the changing socio-economic conditions seem to be one of the reasons. Child labour is any work done by children which hinders their full physical development, desirable minimum educational opportunities or their essential entertainment. Traditionally, a working child is defined as a child in the range of 5–14 years who is either paid or unpaid in wages.⁴

³ Mitra N., The Slave Children of Mandsour, Sunday Magazine, India, 19th December, [1980], at pp. 10–17

⁴ Ibid, at p. 4.

Reduction in Child Labour

India has witnessed a decline in child labour in the last few years. For example, the market for child labour decreased by 39 percent between 2006–2007 and 2011–2012 due to schemes such as Right to Education, Mid-Day Meal, MGNREGA, encouraging children to study.⁵ The role of NGOs was also important in bringing about this decline in child labour. For example, Save the Children, which is considered the best charity for NGOs, is working to mainstream child labourers into schools in Maharashtra's cotton fields.

In 2015, there were even more optimistic signs—the number of child labourers declined 59 percent from 1.35 crore to 77.1 lakh between the 2001 Census and the 2011 Census. This was part of a reply to a Rajya Sabha question about child labour, which also revealed that more than 1650 child labourers were rescued between 2014 and 2015 in India's capital.⁶

As such, child labour are statutes adaptable the work of minors. They plan to keep children away from work that hinders children's ability to attend normal school or that is mentally, physically, socially or respectfully dangerous and harmful. Child labour being able to access modest work areas and cheap labour helped fuel the manufacturing declaration. Prussia was the first country to enact laws prohibiting children from working in factories. After Prussia enacted its first law, other countries such as France, England, and the United States followed.

According to the Factories Act, 1948, dangerous process is that course or motion of an industry mentioned in Schedule 1 of the Act, if not special care is taken, raw resources used therein or the middle or finished products, bye-products, wastes or effluents thereof would cause material mutilation to the health of the people busy in or connected therewith, or effect in the pollution of the broad environment.⁷ The International Labour Organization [ILO] works to set global minimum standards of labour.

Causes of Child Labour

Poverty, parental illiteracy, social and economic conditions of the family are the main causes of child labour. The lack of awareness regarding the harmful effects of child labour and lack of access to basic and quality education, the cultural values of the family and the environment of the society in which it lives, also increases the rate of child labour. High rates of unemployment and under-employment also play a significant role in child labour. Children who drop out or are dropped out of school because of family debt are at higher risk of child labour. Girls from socially disadvantaged groups are at higher risk of being forced into child labour.

Law relating to Labour

The information may vary according to different organizations but the fact is clear that the child labour figures in India are in crores, which is again a sad sight, especially with all kinds of child labour laws and constitutional requirements. The Labour Ministry report states that every fourth child is a child labour, aged between 5–14 years, and one in every three families is child labour. But it is not that the Government of India has not done anything about this grave social humiliation, over the years it has enacted various

⁵ Child Labour and Exploitation: Child Labour Deprives Children of their Right to go to School and Reinforces Intergenerational Cycles of Poverty, available at <https://www.unicef.org/india/what-we-do/child-labour-exploitation>, last accessed on 19th June, 2021.

⁶ Singh Rupendra, Child Labour in India: A Legal Study, International Journal of Research and Analytical Reviews, Vol. 6[1], [January–March, 2019], available at http://ijrar.com/upload_issue/ijrar_issue_20543417.pdf, at pp. 684z–690z.

⁷ Section 6[2(b)] of the Factories Act, 1948.

legal legislation and constitutional requirements to eliminate the hardship of child labour, to name a few of them are as follows:

- a) The Mines Act, 1952.
- b) The Child Labour Act, 1986.
- c) The Factories Act, 1948: a child is who has not over and done with his fifteen years of age.⁸
- d) The Minimum wages Act, 1948: that individual who has not completed fourteen years of age is a child.⁹
- e) The Right of Children to Free and Compulsory Education Act, 2009.
- f) The Plantation Labour Act, 1951: a person who has not completed fourteen years of his age is a child.¹⁰
- g) The Juvenile Justice [Care and Protection] of Children Act, 2000.
- h) Article 24 provides: exactlying prohibits kids to work in risky environment.
- i) Articles 21 and 45 gives the right to education to each and every one the children below the age of 14 years.
- j) Article 39 declares the responsibility of the State to give the children a free facility to expand in conditions of liberty and self-respect in a healthy way.

India is also a festivity to the United Nations assertion on the Rights of the Child, 1959. India is also a participant to:

- a) Development and Protection of Children.
- b) ILO Abolition of Forced Labour Convention [No. 105].
- c) UN Convention on the Rights of the Child [CRC].
- d) World Declaration on the Survival.
- e) ILO Forced Labour Convention [No. 29].

However, it was in 1979, the government created the first board called Gurupadaswamy Board to study the issues of child labour and propose action to start it. The committee examines the problem of the factor and makes some far-reaching recommendations.¹¹ It is plausible that as long as the shortage persists, it will be difficult to get rid of child labour completely and therefore, any attempt to eliminate it during the course of the legal option will be of no practical intent. The Board felt that in such a situation the only option left was to ban child labour in unsafe areas and to control and improve working conditions in other areas. It suggested that several strategies were necessary in commerce with the detriment of working children. The Child Labour [Prohibition and Regulation] Act was enacted in 1986 based on the recommendations of the Gurupadaswamy team.

The Act certainly prohibits the service of children in risky occupations and processing and controlling working conditions in others. The list of hazardous occupations and processes is getting increasingly long on the advice of the Child Labour Technical Advisory Committee constituted under the Act. The Child Labour [Prohibition and Regulation] Act, 1986, while allowing children to be engaged in the process of family-based work or familiar school-based activities, to work in occupations related to travellers, transport of

⁸ Section 2[c] of the Factories Act, 1948.

⁹ Section 2[b] of the Minimum Wages Act, 1948.

¹⁰ Section 2 [c] of the Plantation Labour Act, 1951.

¹¹ Report of the Director General ILO, Youth and Work, Part-II, 1960, at p. 311.

goods by railways, mat weaving, prohibits ash, picking, ash-pit cleaning, cement manufacturing, building operations, construction, textile printing, dyeing, weaving, matching, explosives and fireworks development, catering establishments within the limits of a railway building or port, beedi making, asbestos cutting and splitting, slaughterhouses wool cleaning, cashew and cashew stripping and extrusion, soldering processes in electronic industries and other “hazardous processes”, “hazardous operations”, “printing” [as defined in the Factories Act, 1948, etc.] In line with the above view, a National Policy on Child Labour was formulated in 1987. Therefore, the protection of law is part; to be tall and strong if distributive justice is to be secured for the adults of tomorrow then even after the employment of children remains a problem.¹²

The policy seeks to accept a gradual and chronological loom in the first case with a focus on the treatment of children working in risky occupations and processes. The policy outlines an action plan to deal with this crisis:

- a) Legislative deed plans to strictly enforce the Child Labour Act and other labour laws to ensure that children are not working in hazardous employment, and that the working conditions of children working in harmless areas are subject to the Child Labour Act. It also includes additional recognition of additional occupations and processes that are prejudicial to the health and safety of children.
- b) Focusing on Common Development Programme for the benefit of Child Labour: Since the shortage is the root cause of child labour; the deed scheme emphasized on wrapping these children and their families under the various poverty mitigation and employment group plans.
- c) The action of plan-based plan launched projects in areas of child labour. According to this, in 1988, the National Child Labour Project [NCLP] scheme was launched in 9 districts of high child labour society in the country. The proposal envisaged the operation of exceptional schools for child labour. In extraordinary schools, these children are provided formal/non-formal education with professional teaching, which provides salary of Rs. 150 per month; Additional nutrition and general health checks so that they can be ready to join regular traditional schools. Under this scheme, district collectors are funded for management for child labour. Most of these schools are scattered by NGOs in the district.

Applying a security and health organization plan:

- a) Set a professional security and health strategy with full contribution of workers.
- b) Allocate agricultural duties, responsibility and rights for safety and health movements in the workplace.
- c) Plan the provision of skills and organization of the group including resource allotment.
- d) Plan risk assessment.
- e) Countrywide survey to establish the existence of child labour in organized and non-organized areas, event and scenes.
- f) Through the nomination in schools, successfully apply the rehabilitation of children's labour harsh law and working children, overpassed the courses of education/life skills training/lawyer etc.
- g) Link to child labour elimination pain with education works to ensure that all children of the age group of 5–8 years old are openly connected to school and appropriate education system through old child rehabilitation centers in mainstream.
- h) With the purpose of meeting and progressive removal of all forms of national poverty eradication and

¹². Ibid.

development programs and all forms of child labour.

- i) Educate the society do not employ children or develop them fairly.
- j) Protect the health, safety and development rights of children working with interim protective measures.
- k) Make sure the participation of dedicated charitable organizations at the district level for assistance.
- l) Start the bridge school for all working children, after which they have to enroll in formal schools.
- m) Increase the mechanism to ensure that children are currently working in security from all forms of basic nutrition, clothing, education and abuse, working in the informal sector of the domestic service currently counting and ignore.
- n) Be sure to prevent children's trafficking for family work and their sexual management and physical and mental malice and neglect.
- o) Install a system for reporting such opportunities license and control assignment services so that it can be ensured that children are not accessible to employment, ensure some execution of the Act of the inter-State immigrant worker.
- p) Strengthening and implementing the Child Labour [Prohibition and Regulation] Act, and the Bonded Labour System [*Abolition*] Act for definitive investigation of offenders.
- q) Ministries and departments with a clear child budget and strategy should ensure 100 percent expenditure and also increase the budget keeping in view the large population of children.
- r) Where no hidden child budget is available in the Ministries and Departments, the child budget, expenditure and monitoring should be depicted.

Child Labour: A Stigma on the Face of Society

Child labour has been practiced as a violation of their fundamental rights and its imposition on the mental and physical well-being of the children. Although the constitution states that children cannot be employed in factories, mines and other hazardous workplaces, there are still many children who stop working in restaurants and on public transport. The root cause of child labour is extreme shortage. Similarly, inadequate education and lack of vigilance of the society are other reasons. Eradication of poverty and education and vigilance are necessary if we want to get rid of child labour. Laws and policies related to child labour should not be biased on paper only to insure children's rights to education, food and strength.

The most important factor for its indecent execution has been the paucity of funds. However, there is other evidence to show that the system suffered not so much because of a lack of finance, but often because of a lack of limited resources or the adoption of more spectacular events with smaller consequences, such as institutional forecasts for medicine.¹³ There were many other reasons as well, which were uncovered by a closer examination of the model of extension and performance in child labour reforms.

Whoever employs children below the age of 14 years for any work in which a child is not helping his family after school or during vacation shall be punished with imprisonment of either description for a term which may extend to two years and with fine which may extend to Rs. 50,000.¹⁴ Whoever kidnaps a minor or is not the legal guardian of a minor, obtains the custody of a minor, so that such minor may be employed or used by reason of supply, shall be punished with imprisonment of either description for a term reported shall be liable to fine which may extend to ten years and shall also be liable to fine. The new law prohibits employment of persons aged 14 to 18 in hazardous occupations such as mines and flammable substances or

¹³ Sharma P., Child Labour: A Socio-Legal Study, Journal of the Indian Law Institute, Vol. 36, No. 2, [April-June 1994], at pp. 211-220.

¹⁴ Section 363[A] of the Indian Penal Code.

explosives. However, the law does not apply to a child working in films, announcement or television commerce. The Child Labour [Prohibition and Regulation] Reform Act, 2016 notified and amends the **Child Labour** [Prohibition and Regulation] Act, 1986 to enhance the punishment for employing any child in any occupation other than the punishment. It empowers the government to conduct periodic checks of places where employment of children is banned and there are dangerous occupations.

Conclusion

The object of the study is the extent of employment and child labour among children generally aged 5 to 17 years as well as the nature of the work they perform, the latent exposure to their working conditions and the assets of employment on health and education to prepare data by determining etc. The study has consistently produced information for the elaboration of child guard policy and strategy. It also allowed review of progress in the completion of ILO Conventions 138 and 182 compared to NCLS [2007] figures. The survey has significantly strengthened the national capacity in numerical measurement of child labour in line with international values. Despite the low child labour rate, there is still a high number of child labor and harmful child labour in the country. Government is taking steps to strictly implement legislative provisions along with immediate rehabilitation programs to tackle this problem State Governments, who are the appropriate implementing authorities, are conducting regular inspections and raids to detect violations. As shortage is the root cause of this crisis, and enforcement alone cannot help in overcoming it. The Apex Court M.C. Mehta v. State of Tamil Nadu,¹⁵ directed the State Government to implement the constitutional requirements of the Factories Act to provide frivolous facilities and medical aid to the workers of equal Factories Act. In Rajangam v. State of Tamil Nadu,¹⁶ the employment of children in beedi manufacturing was held to be in contravention of the Beedi and Cigar Workers [Conditions of Employment] Act, 1966 and the Child Labour [Regulation and Prohibition] Act, 1986. It has also been suggested that every employee working in these factories should be covered under a group of insurance scheme. The government is paying great attention to the treatment of these children and to improve the economic condition of their families. Though India has made remarkable progress in overall social development and has implemented necessary measures to protect working children, there is still a need to widen the net of enforcement tools required to implement various existing laws. This is done, which will go a long way in the progress of the country and centrally saving and nurturing the future of millions of children working in both formal and informal labour force in India.

¹⁵ AIR 1991 SC 417.

¹⁶ [1992] 1 SCC 221; [1992] SCC L&S 105.